

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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PDV USA, INC,

Plaintiff

- against -

INTERAMERICAN CONSULTING INC,

Defendant.  
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<b>USDC SDNY</b> <b>DOCUMENT</b> <b>ELECTRONICALLY FILED</b> <b>DOC #:</b> _____ <b>DATE FILED:</b> 12/12/2024
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20-CV-3699 (JGK) (RWL)

**ORDER**

**ROBERT W. LEHRBURGER, United States Magistrate Judge.**

On July 17, 2024, Plaintiff PDV USA, Inc. moved for sanctions against Defendant Interamerican Consulting Inc. based on Defendant's alleged spoliation of evidence and related discovery misconduct. (Dkts. 208-212). Defendant filed its opposition on August 7, 2024 (Dkts. 219-221), and Plaintiff replied on August 21, 2024 (Dkts. 225-226). At that juncture, the motion should have been fully briefed. Since then, however, starting on September 9, 2024 through November 20, 2024, Plaintiff has filed five letters, with attached exhibits, providing "supplemental authority" and "recent developments" in support of its motion. (See Dkts. 229, 233, 234, 240, 241.) Defendant has responded to those letters with counter-arguments and also the assertion that resolution of the motion is premature given the continuing developments, most significantly additional discovery being provided via the government in the criminal action against Mr. Rivera. (Dkts. 237, 245.)

The Court agrees. Each of Plaintiff's additional letters concern a developing fact record, not new case law. The developing facts are material to resolution of Plaintiff's motion; indeed, much of the material Plaintiff already has obtained by way of the criminal

action apparently consists of communications and documents that Plaintiff claims were spoliated in the instant litigation. Additionally, in mid-January, Plaintiff will be further deposing Mr. Rivera and may well inquire about matters implicated by the sanctions motion. The parties' arguments and discussion of the record are now strewn across three briefs and seven supplemental letters and various attachments. The Court will be in a much better position to address the parties' arguments and the factual record when they are more fully formed and consolidated. Accordingly, Plaintiff's motion for sanctions is denied without prejudice to renew at a later juncture.

The Clerk of Court is respectfully directed to terminate the motion at Dkt. 208.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', is written above a horizontal line.

ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

Dated: December 12, 2024  
New York, New York

Copies transmitted this date to all counsel of record.